

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Lianne May	Team: Squad #8	CCRB Case #: 202201741	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 02/21/2022 7:19 PM	Location of Incident: Northwest Corner of Webster Avenue and East 169th Street	Precinct: 44	18 Mo. SOL 8/21/2023	EO SOL 8/21/2023	
Date/Time CV Reported Tue, 03/15/2022 12:42 PM	CV Reported At: CCRB	How CV Reported: Mail	Date/Time Received at CCRB Tue, 03/15/2022 12:42 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. PO Alex Almontepichardo	14825	968930	042 PCT
3. PO Alex Durst	22380	969668	PSA 7
4. PO Brian Jaquez	13354	966287	042 PCT
5. PO Bryan Coluccimolina	19032	971376	044 PCT
6. PO Daniel Diaz	28347	940091	044 PCT
7. PO Francis Acevedo	10430	971779	044 PCT
8. PO Jorge Flores	07680	954816	044 PCT
9. PO Karolin Abreugarcia	22106	968911	044 PCT
10. PO Ramon Mejia	16973	957845	044 PCT
11. PO Edgard Delossantos	23680	971900	044 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO Alejandro Chusan	07411	969015	044 PCT
2. PO Anthony Antigua	07438	968238	PSA 7
3. PO Brian Coradin	30982	968343	042 PCT
4. PO Cesar Espinal	11248	967496	042 PCT
5. PO Christopher Alvarez	25464	970973	044 PCT
6. SGT David Perez	05283	937267	042 PCT
7. PO Diogenes Rodriguezmontero	20183	971650	042 PCT
8. PO Eli Silva	27176	972254	PSA 7
9. PO Fatmir Gjonbalaj	31476	952785	PSA 7
10. PO George Parker	18096	968696	PSA 7
11. PO Gina Panettiere	15316	961063	044 PCT
12. PO Jamil Haddad	22999	969767	PSA 7
13. PO Jennifer Martinez	25763	971133	044 PCT
14. PO Jeyson Bisonosainthilaire	12353	960252	044 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
15. PO John Sanchez	05319	963741	042 PCT
16. PO Kenny Ortiz	20334	959021	044 PCT
17. PO Kourtney Peralta	13617	969282	042 PCT
18. PO Luis Tineo	28588	972286	042 PCT
19. PO Mary Cunningham	17931	954679	044 PCT
20. PO Matthew Mancuso	25663	962569	044 PCT
21. PO Md Howlader	01955	970603	044 PCT
22. PO Michael Loiacono	07456	968580	044 PCT
23. PO Samantha Sifonte	28948	965527	PSA 7
24. PO Tirson Baezpaniagua	14319	967757	044 PCT
25. PO Travis Andreu	01045	963375	044 PCT
26. PO Waldyn Cuevas	24717	971028	044 PCT
27. PO Walid Badhon	26581	970984	044 PCT
28. PO Jonathan Benitez	31467	964919	042 PCT
29. PO Kevin Russo	23293	969344	044 PCT

Officer(s)	Allegation	Investigator Recommendation
A. PO Karolin Abreugarcia	Force: Police Officer Karolin Abreugarcia used physical force against § 87(2)(b)	
B. PO Jorge Flores	Abuse: Police Officer Jorge Flores threatened § 87(2)(b) with the use of force.	
C. PO Jorge Flores	Abuse: Police Officer Jorge Flores threatened § 87(2)(b) with the use of force.	
D. PO Jorge Flores	Abuse: Police Officer Jorge Flores threatened § 87(2)(b) with the use of force.	
E. PO Brian Jaquez	Force: Police Officer Brian Jaquez used physical force against § 87(2)(b)	
F. PO Alex Almontepichardo	Force: Police Officer Alex Almontepichardo used physical force against § 87(2)(b)	
G. PO Edgard Delossantos	Force: Police Officer Edgard Delossantos used physical force against § 87(2)(b)	
H. Officers	Force: Officers restricted § 87(2)(b) breathing.	
I. PO Alex Almontepichardo	Discourtesy: Police Officer Alex Almontepichardo spoke discourteously to § 87(2)(b)	
J. PO Bryan Coluccimolina	Abuse: Police Officer Bryan Coluccimolina interfered with § 87(2)(b) use of a recording device.	
K. Officers	Force: Officers used physical force against § 87(2)(b)	
L. PO Ramon Mejia	Force: Police Officer Ramon Mejia used physical force against § 87(2)(b)	
M. PO Alex Durst	Force: Police Officer Alex Durst used physical force against § 87(2)(b)	
N. Officers	Force: Officers used physical force against § 87(2)(b)	
O. Officers	Discourtesy: Officers spoke discourteously to § 87(2)(b)	
P. PO Francis Acevedo	Force: Police Officer Francis Acevedo used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
Q.P.O Daniel Diaz	Force: Police Officer Daniel Diaz used physical force against § 87(2)(b)	
R. Officers	Force: Officers used physical force against § 87(2)(b)	
S. Officers	Discourtesy: Officers spoke discourteously to § 87(2)(b)	
T. Officers	Force: Officers restricted § 87(2)(b) breathing.	

Case Summary

§ 87(2)(b) an attorney for the Legal Aid Society, filed this complaint on behalf of her client, § 87(2)(b) on March 15, 2022 through email (BR1).

On February 21, 2022 at approximately 7:19PM, there was a 911 call reporting a robbery outside of 1231 Webster Avenue in the Bronx. Police Officers Karolin Abreu-Garcia, Edgard De Los Santos, Jorge Flores, and Ramon Mejia from the 44 Precinct responded to the scene. § 87(2)(b) and § 87(2)(b) (last name unknown) were standing on the street when officers arrived on the scene. § 87(2)(b) alleged that PO Abreu-Garcia pushed § 87(2)(b) (**Allegation A: Force, § 87(2)(g)**). Additional officers responded and a verbal altercation between the officers and the civilians ensued. PO Flores then pointed his CEW (Taser) at § 87(2)(b) and § 87(2)(b) (**Allegations B-D: Abuse of Authority, § 87(2)(g)**).

§ 87(2)(b) fled the scene to the northwest corner of Webster Avenue and East 169th Street and Police Officers Brian Jaquez, Police Alex Almonte-Pichardo from the 42 Precinct, PO De Los Santos and other officers used force to arrest § 87(2)(b) (**Allegations: E-G: Force, § 87(2)(g)**) and officers allegedly restricted his breathing (**Allegation H: Force, § 87(2)(g)**). PO Almonte-Pichardo told § 87(2)(b) to “shut the fuck up” (**Allegation I: Discourtesy, § 87(2)(g)**) in response to § 87(2)(b) saying he could not breathe. § 87(2)(b) was trying to record the arrest of § 87(2)(b) and PO Colucci-Molina interfered with § 87(2)(b) recording (**Allegation J: Abuse of Authority, § 87(2)(g)**). Officers pushed § 87(2)(b) away from § 87(2)(b) arrest (**Allegation K: Force, § 87(2)(g)**). PO Mejia and PO Alex Durst from PSA 7 and other officers then used force to place § 87(2)(b) under arrest and used profanity while arresting him (**Allegations L-O: Force, Discourtesy, § 87(2)(g)**). Police Officer Francis Acevedo and Police Officer Daniel Diaz from the 44 Precinct and other officers then used force to place § 87(2)(b) under arrest (**Allegations P-R: Force, § 87(2)(g)**) and spoke discourteously to him (**Allegation S: Discourtesy, § 87(2)(g)**). § 87(2)(b) alleged that officers restricted his breathing (**Allegation T: Force, § 87(2)(g)**).

The investigation received 63 body-worn camera (BWC) videos (BR2).

§ 87(2)(b) emailed photos and videos she received from her investigation (BR4; BR5).

Findings and Recommendations

Allegation A- Force: Police Officer KAROLIN ABREU-GARCIA used physical force against

§ 87(2)(b)
On February 21, 2022, at 7:19pm, per EVENT § 87(2)(b) and EVENT § 87(2)(b) there was a report that two males were attempting to steal a BMW at gun point in a parking garage at 1231 Webster Avenue (BR12).

According to § 87(2)(b) who is a part of group called Uptown Revolutionaries that monitors and protests police brutality, he and § 87(2)(b) § 87(2)(b) § 87(2)(b) and § 87(2)(b) were standing outside 1245 Webster Avenue when PO Mejia, PO De Los Santos, PO Abreu-Garcia responded to the 911 call and approached the group and asked if they had heard any screaming. § 87(2)(b) and others in the group told the officers to leave. § 87(2)(b) was yelling at the officers when PO Abreu-Garcia allegedly bumped her chest against § 87(2)(b) and pushed him (BR6).

§ 87(2)(b) and § 87(2)(b) lawyers did not allow them to provide statements to the CCRB (BR7; BR8).

§ 87(2)(b) was later arrested for assaulting an officer, resisting arrest, obstructing governmental administration, and disorderly conduct (BR11). The arrest narrative noted that § 87(2)(b) swung at

PO Abreu-Garcia with a closed fist at her chest and then became aggressive and confrontational when he pushed her. He then fled on foot and resisted arrest by flailing and locking his wrists.

In PO Mejia's BWC (BR14) from 00:45-4:10, PO Mejia gets out of his car and approaches § 87(2)(b) and others in a crowd. At 1:00, PO Mejia asks for their names. § 87(2)(b) and § 87(2)(b) are yelling about "allegations" from the police and § 87(2)(b) films the officers' name and shields. PO Mejia asks them if they "saw a crime that happened?" The civilians use multiple profanities to tell the officers to leave the block and are uncooperative. When PO Abreu-Garcia and PO Martinez arrive at 1:25, § 87(2)(b) and § 87(2)(b) walk up to all these officers and yell in their faces. PO Abreu-Garcia pulls a scarf over her mouth as § 87(2)(b) approaches her and yells within inches of her face. PO Abreu-Garcia gestures at him but does not make contact with him. At 2:35, § 87(2)(b) lifts his mask and is within inches of PO Abreu-Garcia's face as he yells at her. The officers then leave while § 87(2)(b) follows PO Abreu-Garcia and continues to yell. She walks away from him down the block. § 87(2)(b) and § 87(2)(b) run up to PO De Los Santos and yell in his face. At 3:30, PO Abreu-Garcia, who was ahead of the rest of the officers walking away, comes back and pulls PO De Los Santos with her. At 3:32, PO Mejia turns around after PO Abreu-Garcia faces § 87(2)(b) and states, "he touched me first." From 3:46-4:00, § 87(2)(b) runs from behind § 87(2)(b) twice and approaches PO Abreu-Garcia. Each time § 87(2)(b) runs from behind him, § 87(2)(b) pulls § 87(2)(b) behind him.

In PO Abreu-Garcia's BWC (BR15) from 00:57-3:15, people ask the officers why they are there. PO Abreu-Garcia states, "I don't know, I don't know, look at y'all." § 87(2)(b) repeatedly gets very close to PO Abreu-Garcia's face and yells "yeah" at her multiple times while getting increasingly closer. At 1:21, PO Abreu-Garcia states, "yeah, what's up?" § 87(2)(b) and PO Abreu-Garcia yell inaudibly at each other twice more. § 87(2)(b) tells her to "get the fuck up out of here." PO Abreu-Garcia tells him and the other males to back up. From 1:30-1:59, PO Abreu-Garcia and § 87(2)(b) yell mostly inaudibly at each other, but the civilians state, "shut up," "who cares," and "what you going to do?" At 2:25, PO Abreu-Garcia is walking away from the crowd. § 87(2)(b) calls PO De Los Santos "little" in Spanish and PO Abreu-Garcia reaches out to hold onto PO De Los Santos' arm. At 3:05, PO Abreu-Garcia is turned away from § 87(2)(b) as she holds on to PO De Los Santos. She then turns around and moves her hands up to the level of her BWC as her BWC is obscured due to § 87(2)(b) being so close to her, but § 87(2)(b) was right behind PO Abreu-Garcia as she turned around. PO Abreu-Garcia puts her hands out in front of her as she backs away from § 87(2)(b) then uses his right fist and swings at PO Abreu-Garcia's chest and does not make contact with her chest. PO Abreu-Garcia yells that § 87(2)(b) touched her first. § 87(2)(b) then repeatedly runs up again to PO Abreu-Garcia until 3:11 (BR).

PO Abreu-Garcia explained to the CCRB that as she was walking away, she turned around to see § 87(2)(b) striking her with a closed fist and she put her arms out to place distance between herself and § 87(2)(b). She never pushed him with any force or chest bumped him. PO Abreu-Garcia only tapped him with open palms on his chest to keep him back (BR16).

NYPD documentation, testimony, and BWC shows that § 87(2)(b) continually ran up to PO Abreu-Garcia when she was leaving the scene. While § 87(2)(b) alleged that PO Abreu-Garcia was the one who approached § 87(2)(b) and chest bumped him, footage shows § 87(2)(b) repeatedly run to PO Abreu-Garcia as she was walking away. PO Abreu-Garcia's BWC was fully obscured during the alleged chest bump because § 87(2)(b) stands right in front of her. It cannot be seen from any of the BWC that she purposefully chest bumps him or who makes the initial contact. § 87(2)(g)

Allegation B- Abuse of Authority: Police Officer JORGE FLORES threatened § 87(2)(b) with the use of force.

Allegation C- Abuse of Authority: Police Officer JORGE FLORES threatened § 87(2)(b) with the use of force.

Allegation D- Abuse of Authority: Police Officer JORGE FLORES threatened § 87(2)(b) with the use of force.

According to § 87(2)(b) after the encounter between PO Abreu-Garcia and § 87(2)(b) approximately 30 additional officers arrived on the scene. § 87(2)(b) was with § 87(2)(b) § 87(2)(b) § 87(2)(b) a female, and a few others totaling about six people. PO Flores approached the group, told them not to touch him and then pointed his CEW (Taser) at the group, which included § 87(2)(b) and § 87(2)(b) (BR6).

In PO Mejia's BWC (BR14) from 3:38-5:00 after the encounter between PO Abreu-Garcia and § 87(2)(b) PO Mejia turns around to § 87(2)(b) walking toward PO Mejia stating, "you don't control shit. You don't control nothing." § 87(2)(b) § 87(2)(b) § 87(2)(b) and others call the officers "little doggie" and PO Mejia gestures toward them to move away but does not say anything. The crowd continually states "fuck the 44 Precinct" and yells at officers to leave but no physical contact is made between officers and the crowd. At 3:52, PO Abreu-Garcia yells that she is recording the situation. § 87(2)(b) runs away from the officers behind § 87(2)(b) in the back of the crowd. A female civilian, § 87(2)(b) § 87(2)(b) § 87(2)(b) and § 87(2)(b) stand in a row and start to back up from the officers and officers slowly walk toward them. They record the officers, and the female civilian puts her arm across § 87(2)(b) chest as he yells "fuck the 44 Precinct" to the officers. PO Mejia continues to walk forward and the crowd steps to the side as he walks past. The female civilian holds § 87(2)(b) back behind her from the officers. At 4:20, § 87(2)(b) runs at PO Flores to PO Mejia's right and puts his finger in PO Flores' face. PO Flores points his finger at § 87(2)(b) and states, "don't touch me." § 87(2)(b) never made contact with PO Flores. At 4:27, a civilian trips over a person in a wheelchair and PO Flores points his finger at the crowd on the right side of the screen and states, "that's why she almost fell." At 4:39, PO Flores approaches the female in the crowd as she puts her hand out in front of her and § 87(2)(b) stands next to her. § 87(2)(b) and § 87(2)(b) stand behind § 87(2)(b) and the female and yell, "you're a bitch" at the officers. § 87(2)(b) runs to PO Mejia and tells him multiple times to "get his people."

PO Flores' BWC (BR19) from 4:10-6:00 shows PO Flores running out of a parking garage with other officers to see § 87(2)(b) § 87(2)(b) § 87(2)(b) and others form a crowd shouting at the officers who issue no commands. The officers walk toward the civilians as the civilians back away slowly. This is an overall chaotic scene with officers from three different commands converging onto this location due to the call for armed robbery. PO Flores inserts himself in front of the other officers and yells at everyone, particularly § 87(2)(b) At 4:39, § 87(2)(b) runs to PO Flores and puts his hand in PO Flores' face. PO Flores states, "don't do that. Do not touch me. Do not touch me bro...do not touch me" and points his finger at § 87(2)(b) § 87(2)(b) § 87(2)(b) § 87(2)(b) § 87(2)(b) and the rest of the crowd slowly back up down the block, while still talking to the officers. At 4:48, § 87(2)(b) approaches PO Flores and says, "shut the fuck up." PO Flores pulls out his CEW (Taser) and points it at § 87(2)(b) § 87(2)(b) § 87(2)(b) and the rest of the crowd. § 87(2)(b) § 87(2)(b) § 87(2)(b) and the rest of the crowd are in a group yelling at the officers but are walking away. The crowd yells at PO Flores to put the CEW (Taser) down. At 5:30, § 87(2)(b) begins to run away from the officers down the block. PO Flores is the first to run down the street to chase § 87(2)(b)

PO Flores explained that when he arrived at the location, he and his partner, PO Mejia, split up. PO Flores went into a nearby parking garage to investigate the robbery, where he learned that the robbery suspects had fled the scene. PO Mejia then went over the radio, calling for assistance, so

PO Flores ran to assist in the vicinity of 1245 Webster Avenue, where he observed § 87(2)(b) and § 87(2)(b) yelling at officers with “vulgar, obscene, and derogatory language.” PO Mejia ordered the crowd to disperse and none of them did. Because their commands to disperse were not heeded, PO Flores drew his CEW (Taser) specifically at § 87(2)(b) only to gain compliance, deescalate § 87(2)(b) yelling, and compel § 87(2)(b) to disperse, but PO Flores never intended to use his CEW (Taser). PO Flores explained that it was reasonable to draw it because it could have been a non-lethal approach to the situation. § 87(2)(b) never touched or took any other physical actions against PO Flores. PO Flores never told § 87(2)(b) he was under arrest or would be arrested. However, he was focusing on § 87(2)(b) specifically because he was acting disorderly, not complying with orders to disperse and provoking and antagonizing the officers on the scene. PO Flores also noted that there was a woman standing between him and § 87(2)(b) who was putting her hands out and he did not deploy his CEW (Taser) because he did not want to make contact with this female (BR17).

Patrol Guide procedure 221-08 on the use of conducted electrical weapons states: A CEW should only be used against persons who are actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or other person(s) actually present. It will often reduce the potential for injuries to members and suspects that may result from physical restraint and should be regarded as a possible alternative to such force and restraint, where practical. It is prohibited to use a CEW in situations that do not require the use of physical force (BR20).

BWC shows that PO Flores pointed his CEW (Taser) at the crowd of civilians in front of him, including § 87(2)(b) and § 87(2)(b) and not just at § 87(2)(b) as PO Flores testified. While § 87(2)(b) and § 87(2)(b) were yelling at PO Flores, none of them ever physically touch him. PO Flores’ BWC shows § 87(2)(b) running up toward PO Flores but § 87(2)(b) never physically touches or threatens PO Flores. No officers take any action to place § 87(2)(b) under arrest. No one in the crowd exhibited active aggression and there was no imminent threat of potential injury. PO Flores explained that he pointed his CEW (Taser) to gain compliance and he did not intend to use it, § 87(2)(g)

Allegation E- Force: Police Officer BRIAN JAQUEZ used physical force against § 87(2)(b)

Allegation F- Force: Police Officer ALEX ALMONTEPICHARDO used physical force against § 87(2)(b)

Allegation G- Force: Police Officer EDGARD DELOSSANTOS used physical force against § 87(2)(b)

Allegation H- Force: Officers restricted § 87(2)(b) breathing.

Allegation I- Discourtesy: Police Officer ALEX ALMONTEPICHARDO spoke discourteously to § 87(2)(b)

Allegation J- Abuse of Authority: Police Officer BRYAN COLUCCIMOLINA interfered with § 87(2)(b) use of a recording device.

Allegation K-Force: Officers used physical force against § 87(2)(b)

As seen in PO Flores’ BWC (BR19), after PO Flores points his CEW (Taser), § 87(2)(b) runs down approximately half a block to a flight of steps where he runs up a few steps at the northwest corner of Webster Avenue and East 169th Street in the Bronx. PO Flores is the first officer from the crowd of officers to pursue § 87(2)(b)

According to § 87(2)(b) the CEW (Taser) frightened § 87(2)(b) and he fled from the officers. § 87(2)(b) followed § 87(2)(b) with his phone out recording the interaction. § 87(2)(b) had run up some steps at the northwest corner of Webster Avenue and East 169th Street and was holding on to the railing when PO Jacquez and other officers yanked § 87(2)(b) off the railing. In the process of pulling

§ 87(2)(b) off the railing, PO Flores, PO Durst, PO Jaquez, PO De Los Santos, and other officers threw § 87(2)(b) off a step and § 87(2)(b) caught § 87(2)(b) § 87(2)(b) fell as a result and PO Colucci-Molina then grabbed § 87(2)(b) cell phone, which he was using to record the arrest. § 87(2)(b) never alleged any force against him at the point in which PO Colucci-Molina took his phone. § 87(2)(b) observed officers place their knees on § 87(2)(b) neck while they were placing him under arrest (BR6).

In PO Jaquez's BWC (BR21) from 7:20-7:50, PO Jaquez is one of the first officers to approach § 87(2)(b) on the stairs when no other civilians are present. § 87(2)(b) tells the officers to not chase him and he has a heart problem. PO De Los Santos tells him to stop running. PO Jaquez goes on the stairs above § 87(2)(b) grabs the hood of his coat, and then pushes him to the crowd of officers below. At 7:40, § 87(2)(b) is seen in the crowd of officers under the stairs wearing a white mask and glasses. As officers push § 87(2)(b) down, PO Colucci-Molina takes his phone at 7:43 while § 87(2)(b) is still in the crowd of officers. § 87(2)(b) states, "my phone" while officers repeatedly give him commands to "back up, back up." Officers push him out of the way of the arrest and at 7:46, § 87(2)(b) does not comply and runs back at the officers toward the arrest. PO Jaquez puts his hands out to prevent § 87(2)(b) from running at the officers again.

In PO Almonte-Pichardo's BWC from 8:51-9:45 (BR22), PO Almonte-Pichardo arrives at 169th Street and Webster Avenue. PO Flores, PO Durst, PO Jaquez, PO De Los Santos, and other officers have already chased § 87(2)(b) up to the stairs. At 8:57, § 87(2)(b) stands at the bottom of the stairs in a white hoodie and films the officers arresting § 87(2)(b). Officers surround § 87(2)(b) at they try to arrest § 87(2)(b) who stands a few stairs above § 87(2)(b). Officers pull § 87(2)(b) off the stairs as PO Almonte-Pichardo yells, "put him under, put him under, put him under" at 8:57. Officers and PO Almonte-Pichardo pull § 87(2)(b) off the stairs at 9:00 and § 87(2)(b) stands to PO Almonte-Pichardo's right as they pull § 87(2)(b) to the left. At 9:03, officers bring § 87(2)(b) to the ground by his jacket bringing § 87(2)(b) to a prone position on the ground. § 87(2)(b) cannot be seen in the BWC anymore and PO Almonte-Pichardo does not interact with or show any other officers' interactions with him. PO Almonte-Pichardo is directly above § 87(2)(b). At 9:05, PO Almonte-Pichardo pushes § 87(2)(b) head down with his right hand. At 9:12, § 87(2)(b) states, "bro, I can't breathe" to which PO Almonte-Pichardo states, "shut the fuck up." It cannot be seen who, if anyone, restricts § 87(2)(b) breathing. PO Almonte-Pichardo holds § 87(2)(b) left arm with his right hand while another officer handcuffs him. At 9:42, PO Almonte-Pichardo stands § 87(2)(b) up and walks with him. Officers are not kneeling on him or restricting his breathing as they do this.

In PO Colucci-Molina's BWC from 5:52-6:00 (BR23), PO Colucci-Molina, other officers, and § 87(2)(b) run toward the stairs in pursuit of § 87(2)(b). § 87(2)(b) runs to record using his cell phone § 87(2)(b) is in the middle of officers arresting § 87(2)(b) on the stairs as officers come up behind him to arrest § 87(2)(b). At 5:59, PO Colucci-Molina says nothing and reaches out to hold § 87(2)(b) left hand (with the cell phone) with both of PO Colucci-Molina's hands holding the phone. PO Colucci-Molina holds § 87(2)(b) left wrist with his right hand as he faces § 87(2)(b). PO Colucci-Molina then uses PO Colucci-Molina's right hand to grab the phone out of § 87(2)(b) hand. No officers ever tell § 87(2)(b) he is under arrest or will be arrested.

In PO Coradin's BWC from 8:54-9:30 (BR24), PO Coradin runs to the stairs as § 87(2)(b) is arrested. At 9:04, officers are crowded around § 87(2)(b) near the stairs and § 87(2)(b) stands inside of the crowd. PO Colucci-Molina had taken his phone. At 9:05, two officers push him out and away from the crowd where § 87(2)(b) is arrested. PO Coradin holds § 87(2)(b) jacket and pushes him away further from the arrest. § 87(2)(b) runs back into the crowd and officers push him out again. At 9:10, § 87(2)(b) stands away from the officers and the arrest. He walks again toward the arrest and an officer holds his hand up to prevent him from further interfering. Officers tell § 87(2)(b)

repeatedly to back up and he does not comply while stating someone snatched his phone. An officer gives § 87(2)(b) his phone back and officers let him walk away. § 87(2)(b) is not arrested or issued any summonses at this point.

PO Almonte-Pichardo explained that when bringing § 87(2)(b) to the ground, PO Almonte-Pichardo held § 87(2)(b) arm with his hands to place handcuffs on him. PO Almonte-Pichardo placed his hand on § 87(2)(b) head to control his body and avoided putting pressure on § 87(2)(b) back and shoulders. PO Almonte-Pichardo knelt with his right knee on the ground supporting all of his weight and his left knee up and not resting on any part of § 87(2)(b) body. PO Almonte-Pichardo denied that any positions he or any officers took would have restricted § 87(2)(b) breathing. PO Almonte-Pichardo could not provide any reasoning for telling § 87(2)(b) to “shut the fuck up” (BR25).

PO Colucci-Molina explained that § 87(2)(b) approached with a cell phone in the air and believed this constituted interference with the arrest of § 87(2)(b) because he was blocking officers and the use of the phone was interfering with the arrest. PO Colucci-Molina grabbed the phone to prevent § 87(2)(b) from further interfering. When PO Colucci-Molina secured the phone, he assumed § 87(2)(b) was going to be arrested but he was not under arrest at that point. PO Colucci-Molina did not tell § 87(2)(b) he was under arrest or would be arrested when taking his phone (BR18).

According to Patrol Guide 221-01, force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances (BR26).

According to Patrol Guide Procedure 200-02, the Department is committed to accomplishing its mission of protecting the lives and property of all citizens of New York City by treating every citizen with compassion, courtesy, professionalism, and respect (BR27).

According to Patrol Guide procedure 203-09, officers cannot intentionally block or obstruct cameras or other recording devices when there is no legitimate law enforcement reason to do so (BR28).

According to Disciplinary Court No. 2018-18951, officers have a responsibility to act with decorum in their interactions with civilians, though there are certain situations where profane remarks made during a stressful or chaotic situation do not constitute misconduct (BR34).

The BWC footage shows that § 87(2)(b) ran from the officers and when they approach him, they immediately place him under arrest. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

PO Almonte-Pichardo denied that he and other officers restricted § 87(2)(b) breathing when they were apprehending him. BWC does not show officers placing pressure or kneeling on his neck, back or chest. Because § 87(2)(b) did not provide a statement to the CCRB, the investigation could not determine how his breathing was restricted. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Per PO Almonte-Pichardo's BWC, PO Almonte-Pichardo tells § 87(2)(b) to "shut the fuck up" after § 87(2)(b) says he can't breathe. PO Almonte-Pichardo could not provide any justification for saying this. While there is no dispute that the arrest of § 87(2)(b) was chaotic, and § 87(2)(b) was not handcuffed at the time, telling § 87(2)(b) to "shut the fuck up" after saying he could not breathe § 87(2)(b)

§ 87(2)(g)

In is undisputed from testimony and footage that § 87(2)(b) was interfering with officers as they arrested § 87(2)(b). However, at the point PO Colucci-Molina took § 87(2)(b) phone, § 87(2)(b) was not under arrest. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) never alleged force immediately after PO Coluci-Molina took his phone before his arrest. However, BWC shows that as § 87(2)(b) attempted to interfere with § 87(2)(b) arrest, multiple officers pushed him away from the arrest. § 87(2)(b) ran back into the crowd of officers arresting him multiple times and officers pushed him away. PO Coradin pulled § 87(2)(b) away.

§ 87(2)(g)

Allegation L- Force: Police Officer RAMON MEJIA used physical force against § 87(2)(b)

Allegation M- Force: Police Officer ALEX DURST used physical force against § 87(2)(b)

Allegation N- Force: Officers used physical force against § 87(2)(b)

Allegation O- Discourtesy: Officers spoke discourteously to § 87(2)(b)

Allegation P- Force: Police Officer FRANCIS ACEVEDO used physical force against § 87(2)(b)

Allegation Q- Force: Police Officer DANIEL DIAZ used physical force against § 87(2)(b)

Allegation R- Force: Officers used physical force against § 87(2)(b)

Allegation S- Discourtesy: Officers spoke discourteously to § 87(2)(b)

Allegation T- Force: Officers restricted § 87(2)(b) breathing.

§ 87(2)(b) was issued two criminal summonses (BR9). One was for disorderly conduct and fighting with intent to cause public annoyance and alarm while recklessly creating a risk by engaging in tumultuous and threatening behavior. The second was for disorderly conduct by refusing lawful orders to disperse.

§ 87(2)(b) alleged that when he was arrested, no officers issued any commands. § 87(2)(b) was on the ground on his right shoulder and his body was twisted, when he first heard an officer tell him to give him his hands. § 87(2)(b) did not comply with the order because when § 87(2)(b) was on the ground, he felt officers on top of him, and was unable to get his arms out from under him. § 87(2)(b) felt officers punch and kick him on his side, but he could not see these officers. Additionally, when § 87(2)(b) complained that he could not breathe because of the officers on top of him, PO Flores said "so what?" (BR6).

At the same time that officers arrested § 87(2)(b) officers also arrested § 87(2)(b) but § 87(2)(b) could not see clearly what was happening to § 87(2)(b) § 87(2)(b) did see that § 87(2)(b) was walking near a police van when officers encircled him and tackled him.

In PO Colucci-Molina's BWC (BR23) from 6:00-7:05, officers have taken § 87(2)(b) to the ground and § 87(2)(b) attempts to walk toward the officers arresting § 87(2)(b). Officers surround § 87(2)(b) and yell at him to "back up" multiple times. At 6:15, officers give § 87(2)(b) back his phone and he walks through the crowd of officers to the street until 7:00 without any officers interacting with him, making contact with him, or speaking to him at all. At 6:47, officers bring § 87(2)(b) in handcuffs to the street. At 7:00, officers yell for the crowd to "back up" multiple times. Officers then walk toward § 87(2)(b) and § 87(2)(b) as described below in PO Parker's BWC.

In PO Parker's BWC (BR30) from 1:50-4:30, officers do not push but touch § 87(2)(b) as he stands next to the arrests. § 87(2)(b) yells at officers that it is his right to watch the arrests and stands near the arrests. At 2:02, § 87(2)(b) stands next to § 87(2)(b) and they huddle next to each other as officers at then crowd around § 87(2)(b) and § 87(2)(b). Officers push and pull § 87(2)(b) away from § 87(2)(b) as they stand next to each other to separate them. At 2:07, an officer then pushes § 87(2)(b) away and states, "back the fuck up." Officers successfully separate § 87(2)(b) and § 87(2)(b). § 87(2)(b) falls to the ground on his right side and officers push him so he is face-down on the ground. Officers begin to handcuff him. At 2:13, officers tell § 87(2)(b) to "give me your fucking hands, motherfucker." No officers punch or kick § 87(2)(b). Officers yell at § 87(2)(b) that he "didn't want to leave." § 87(2)(b) lays on the ground with his head toward PO Parker and officers crowded around his legs and back behind him. At 2:21, PO Parker then turns to where officers are pushing § 87(2)(b) against a vehicle. § 87(2)(b) yells at officers that he "will go down" and they hold his hands behind his back. § 87(2)(b) is on the ground at 2:32. At 2:44, PO Parker turns to see officers handcuffing § 87(2)(b) on the ground. At 2:50, officers have § 87(2)(b) and § 87(2)(b) on the ground separated and are handcuffing each one and PO Parker is not involved. At 3:11, § 87(2)(b) stands up handcuffed and pulls at officers holding his hands while yelling and screaming inaudibly. Officers open the van door and put § 87(2)(b) in while stating he is kicking them. Officers bring a handcuffed § 87(2)(b) to the van at 3:33 but cannot place him in the van as § 87(2)(b) is still resisting from inside. Officers state they will place § 87(2)(b) in another vehicle.

In PO Durst's BWC (BR32), from 3:47-6:20, two officers stand § 87(2)(b) up and begin walking him from the stairs to the arrest van. At 3:54, the officers with § 87(2)(b) walk past § 87(2)(b) § 87(2)(b) and § 87(2)(b) § 87(2)(b) and § 87(2)(b) turn and walk toward the officers with § 87(2)(b). Officers tell them to back up. PO Durst tells officers to get them out of there and § 87(2)(b) joins § 87(2)(b) and § 87(2)(b) where officers are holding § 87(2)(b). At 4:10, PO Durst tells § 87(2)(b) § 87(2)(b) and § 87(2)(b) to back up multiple times and the officers walk toward them while stating that § 87(2)(b) was arrested. § 87(2)(b) § 87(2)(b) and § 87(2)(b) slowly back up. PO Durst states "OGA" and officers begin to separate and arrest § 87(2)(b) and § 87(2)(b). At 4:20, PO Mejia holds § 87(2)(b) arms behind him and other officers push § 87(2)(b) away as PO Durst stands in the middle. § 87(2)(b) looks at his phone while putting his arms out and gesturing to § 87(2)(b). At 4:36, officers pull § 87(2)(b) to the side of a police vehicle and handcuff him on the ground. He states he is not resisting and tells officers to pick him up. Officers tell him to "stop talking" and "shut up." § 87(2)(b) states the officers do not know who they are "fucking with" and officers state he is "fucking with the police, that's who you fucking with." As soon as officers handcuff him, they stand him up and he resists the officers at 5:25 by pulling away from them as they hold his handcuffs. At 5:40, § 87(2)(b) sits in the van and continues to try to kick the officers.

In PO Acevedo's BWC (BR33) from 1:50-2:55, PO Acevedo approaches officers attempting to handcuff § 87(2)(b). Officers tell him to give them his hands, to stop "fucking resisting", and put his hands behind his back. Officers pull his arms from under him, and PO Acevedo handcuffs him. No one kicks or punches § 87(2)(b) or § 87(2)(b).

According to Patrol Guide 221-01, force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances (BR26).

According to Patrol Guide Procedure 200-02, the Department is committed to accomplishing its mission of protecting the lives and property of all citizens of New York City by treating every citizen with compassion, courtesy, professionalism, and respect (BR27).

According to Disciplinary Court No. 2018-18951, officers have a responsibility to act with decorum in their interactions with civilians, though there are certain situations where profane remarks made during a stressful or chaotic situation do not constitute misconduct (BR34).

Based on BWC, § 87(2)(b) ignored verbal commands to comply and then pulled away from officers as they attempted to handcuff him. Officers handcuffed him, immediately stood him up, and placed him into the arrest van where he was still resisting them. § 87(2)(g)

As per Disciplinary Court No. 2018-1895, profane remarks during a stressful encounter do not constitute police misconduct. § 87(2)(g)

§ 87(2)(b) The remarks were made while trying to control § 87(2)(b) who was not complying with the officers, and to gain his compliance. § 87(2)(g)

§ 87(2)(g). During the entire incident, officers had issued verbal commands and used profanity while telling him to back away from § 87(2)(b) after § 87(2)(b) arrest and then separate him from § 87(2)(b) before both were placed under arrest. § 87(2)(b) continually ignored all officers § 87(2)(b). No officer punched, kicked, or used unreasonable force during their apprehension. § 87(2)(g)

An officer stated, "back the fuck up" and then to "give me your fucking hands, motherfucker." Officers used profanity throughout § 87(2)(b) arrest but because of § 87(2)(b) resistance, § 87(2)(g)

§ 87(2)(b) alleged to the CCRB that he could not breathe during his apprehension, but BWC shows no officers taking any actions to inhibit his breathing and he did not say this on BWC. Officers denied being in any position that would have restricted his breathing. § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR35).
- § 87(2)(b) has been party to two CCRB complaints and has been named as a victim in no allegations (BR36).
- § 87(2)(b) has been party to four CCRB Complaints and has been named as a victim in four allegations (BR37).
- Police Officer Karolin Abreu-Garcia has been a member-of-service for two years and this is the first CCRB complaint to which he has been a subject (BR28).
- Police Officer Bryan Colucci-Molina has been a member-of-service for one year and this is the first CCRB complaint to which he has been a subject (BR39).
- Police Officer Francis Acevedo has been a member-of-service for one year and this is the first CCRB complaint to which he has been a subject (BR40).
- Police Officer Edgard De Los Santos has been a member-of-service for one year and this is the first CCRB complaint to which he has been a subject (BR41).
- Police Officer Alex Durst has been a member-of-service for one year and this is the first CCRB complaint to which he has been a subject (BR42).
- Police Officer Alex Almonte-Pichardo has been a member of service for two years and has been a subject in two CCRB complaints and two allegations, none of which were substantiated.
§ 87(2)(g)
- Police Officer Ramon Mejia has been a member of service for seven years and has been a subject in two CCRB complaints and two allegations, none of which were substantiated.
§ 87(2)(g)
- Police Officer Brian Jaquez has been a member of service for four years and has been a subject in two CCRB complaints and two allegations, none of which were substantiated.
§ 87(2)(g)
- Police Officer Jorge Flores has been a member of service for 9 years and has been a subject in 10 CCRB complaints and 23 allegations, of which six were substantiated.
§ 87(2)(g)
 - 201608051 involved substantiated allegations of refusal to provide medical attention. APU closed and retained with discipline and the NYPD imposed formalized training.
 - 201808686 involved substantiated allegations of discourtesy. The Board recommended instructions and the NYPD imposed instructions.
 - 201901734 involved substantiated allegations of threat of arrest. The Board recommended formalized training and the NYPD imposed formalized training.
 - 201906935 involved substantiated allegations of failure to provide RTKA card and refusal to obtain medical treatment. The Board recommended Command Discipline A and the NYPD imposed Command Discipline A.
- Police Officer Daniel Diaz has been a member of service for 16 years and has been a subject in 11 CCRB complaints and 23 allegations, of which six were substantiated.
§ 87(2)(g)
 - 201605109 involved a substantiated allegation of force using a vehicle. The Board recommended Command Discipline B and the NYPD imposed no penalty.
 - 201708303 involved a substantiated allegation of a vehicle search. The Board recommended Command Discipline B and the NYPD imposed Command Discipline A.

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.

- § 87(2)(b) filed a Notice of Claim with the City of New York claiming physical injuries, emotional distress, violation of Constitutional rights, and seeking financial redress as per a jury's decision. There is no 50H hearing scheduled (BR48).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
- [REDACTED]
 [REDACTED]
- [REDACTED]
 [REDACTED]

Squad: 7

Investigator:	<u>Lianne May</u> Signature	<u>Investigator Lianne May</u> Print Title & Name	<u>May 5, 2023</u> Date
Squad Leader:	<u></u> Signature	<u>Manager Vanessa Rosen</u> Print Title & Name	<u></u> Date
Reviewer:	<u></u> Signature	<u></u> Print Title & Name	<u></u> Date